

REMARKS

The applicants note with appreciation the acknowledgement of the claim for priority under section 119 and the notice that all of the certified copies of the priority documents have been received.

The applicants acknowledge and appreciate receiving an initialed copy of the form PTO-1449 that was filed on April 1, 2004.

Claims 1 – 7 are pending. The applicants respectfully request reconsideration and allowance of this application in view of the above amendments and the following remarks.

Claims 1 – 7 were rejected under 35 USC 112, second paragraph, as being indefinite. The specific instances of indefiniteness identified in the office action have been amended in claims 1, 3 and 5. Reconsideration and withdrawal of the rejection is respectfully requested, in view of the amended claims.

The examiner is thanked for indicating the allowability of claims 4 and 5, if re-written in independent form and to overcome the rejection under 35 USC 112, second paragraph.

Claims 1 – 3 and 6 – 7 were rejected under 35 USC 103(a) as being unpatentable over U.S. Patent 5,148,894, Eddy (“Eddy”) in view of U.S. Publication No. 2002/0108816, Taniguchi (“Taniguchi”). The rejection is respectfully traversed for reasons including the following, which are provided by way of example.

As described in the application, one or more embodiments of the invention is directed to solving the problem of providing “a braking apparatus, in which the extraneous material, such as rain water and the dust may not easily come into a motor housing and furthermore breathing

between the inside and outside of the motor housing is possible.” (Specification page 2, lines 20 - 23.)

According to the claims, e.g., claim 1, the invention is directed to a braking apparatus for a motor vehicle. Claim 1 recites, in combination, for example, that the through-hole communicates the inside space of the housing with the outside of the parking brake device; and the through-hole always communicates the inside and the outside of the parking brake device via the breathing pipe, so that the air of the housing can be ventilated. (E.g., claim 1).

The office action admits that Eddy lacks the teaching of the breathing pipe. In order to remedy the deficiencies of Eddy, the office action cites Taniguchi. However, Taniguchi fails to remedy the deficiencies of Eddy.

The office action asserts that Taniguchi discloses the breathing pipe as recited, contending that “Taniguchi teaches a breathing pipe (74) connected at one end to a through hole through which a machine tool (80) is inserted to manually turn the motor.” To the contrary, Taniguchi fails to teach or suggest, for example, the through hole as claimed.

Reference numeral 74 in Taniguchi is a plane bearing provided at a rear end of the rear erecting wall 41c of the housing 41. An upper end of a rotational shaft 75 is inserted into the bearing 74, and a hexagonal hole 75a is formed at the upper end of the shaft 75. The bearing 74 of Taniguchi fails to teach or suggest a through-hole for communicating the inside space of the housing 41 (in which an electromagnetic brake 33 and other parts are housed) with the outside of the housing 41.

To the contrary, even if the bearing 74 is regarded as a kind of through-hole, Taniguchi’s hole is always closed by the upper end of the shaft 75. Taniguchi’s bearing therefore cannot

“always communicate the inside and the outside of the parking brake device via the breathing pipe, so that the air of the housing can be ventilated.” (See claim 1.)

Eddy and Taniguchi, alone and/or in combination, fail to teach or suggest, for example, these elements recited in independent claim 1. It is respectfully submitted therefore that claim 1 is patentable over Eddy and/or Taniguchi.

For at least these reasons, the combination of features recited in independent claim 1, when interpreted as a whole, is submitted to patentably distinguish over the prior art. In addition, the references of record clearly fail to show other claimed features as well.

With respect to the rejected dependent claims, the applicants respectfully submit that these claims are allowable not only by virtue of their dependency from independent claim 1, but also because of additional features they recite in combination.

The applicants respectfully submit that, as described above, the cited prior art does not teach or suggest the combination of features recited in the claims. The applicants do not concede that the cited prior art shows any of the elements recited in the claims. However, the applicants have provided specific examples of elements in the claims that are clearly not present in the cited prior art.

The applicants strongly emphasize that one reviewing the prosecution history should not interpret any of the examples the applicants have described herein in connection with distinguishing over the prior art as limiting to those specific features in isolation. Rather, for the sake of simplicity, the applicants have provided examples of why the claims described above are distinguishable over the cited prior art.

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In view of the foregoing, the applicants respectfully submit that this application is in condition for allowance. A timely notice to that effect is respectfully requested. If questions relating to patentability remain, the examiner is invited to contact the undersigned by telephone.

Please charge any unforeseen fees that may be due to Deposit Account No. 50-1147.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'Cynthia K. Nicholson', written over a horizontal line.

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